

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
) Case No. 1:21-CR-00053
) (WMS)
 Plaintiff,)
)
 vs.) December 1st, 2021
) 3:07 p.m.
 DAVID MONDORE,)
)
 Defendant.)

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE WILLIAM M. SKRETNY
SENIOR UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: TRINI E. ROSS, ESQ.
UNITED STATES ATTORNEY
BY: CHARLES KRULY, ESQ.
ASSISTANT UNITED STATES ATTORNEY
138 Delaware Avenue
Buffalo, NY 14202

For the Defendant: FEDERAL PUBLIC DEFENDER'S OFFICE
BY: JEFFREY BAGLEY, ESQ.
ASSISTANT FEDERAL PUBLIC DEFENDER
300 Pearl Street, Suite 450
Buffalo, NY 14202

Probation Officer: JACLYN SAINSBURY

20 | Victim: NATALIE CLAUS

21 Court Reporter: MEGAN E. PELKA, RPR
22 Robert H. Jackson US Courthouse
23 2 Niagara Square
Buffalo, NY 14202
(716) 364-6449

03:07PM 1 THE CLERK: Criminal case 21-53 United States vs.
03:07PM 2 David Mondore.

03:07PM 3 THE COURT: Okay. Good afternoon everyone. As you
03:08PM 4 can see, my staff does not have masks. If any of you wish to
03:08PM 5 remove yours, we are all vaccinated and whatever makes the
03:08PM 6 attorneys and the parties and the visitors most comfortable,
03:08PM 7 you're free to do that in the courtroom.

03:08PM 8 This matter is set for sentencing. I'm ready to proceed.
03:08PM 9 It's been around for some time now and I have reviewed, in
03:08PM 10 detail, the submissions. And for record purposes I'm going to
03:08PM 11 ask the attorneys and the individual who is being sentenced
03:08PM 12 today to identify himself for the record. If you would start
03:08PM 13 with the government please, Mr. Kruly?

03:08PM 14 MR. KRULY: Yes, Your Honor. Charles Kruly for the
03:08PM 15 United States. Good afternoon.

03:08PM 16 THE COURT: Good afternoon.

03:08PM 17 MR. BAGLEY: Good afternoon, Judge. Jeff Bagley for
03:08PM 18 Mr. David Mondore.

03:08PM 19 THE COURT: All right, Mr. Bagley. Good afternoon.

03:08PM 20 THE DEFENDANT: Good afternoon, Your Honor. David
03:09PM 21 Mondore.

03:09PM 22 THE COURT: All right, Mr. Mondore. Good afternoon.
03:09PM 23 As you know, you have certain rights that relate to
03:09PM 24 sentencing. I know that we talked about this back when you
03:09PM 25 pled guilty back in June of this year. But specifically, if

03:09PM 1 there is going to be an appeal, one, you have an attorney
03:09PM 2 right until your case is complete in all respects. If you are
03:09PM 3 going to take an appeal, you need to be eligible, and that
03:09PM 4 requires that you or your attorney file a Notice of Appeal
03:09PM 5 within 14 days after I complete your sentencing. Do you
03:09PM 6 understand that?

03:09PM 7 THE DEFENDANT: Yes, sir.

03:09PM 8 THE COURT: Okay. I am going to give you the
03:09PM 9 opportunity to make a statement and I will listen very
03:09PM 10 carefully to what you have to say. You don't have to say
03:09PM 11 anything. I've reviewed all the submissions, the legal brief
03:10PM 12 of your attorney, his sentencing factor statements, the
03:10PM 13 government's memorandum with respect to sentencing.

03:10PM 14 There's also a very detailed presentence report that was
03:10PM 15 authored by Ms. Sainsbury who is here from probation. And the
03:10PM 16 report itself was originally dated back in August and it was
03:10PM 17 amended in October or at least updated in October.

03:10PM 18 Is there anything since that time, Ms. Sainsbury, that
03:10PM 19 needs to be added?

03:10PM 20 P.O. SAINSBURY: No more changes, Your Honor.

03:10PM 21 THE COURT: Okay. Thank you. I have reviewed that
03:10PM 22 report in detail. I take it, Mr. Bagley, you've received it
03:10PM 23 and discussed it with Mr. Mondore?

03:10PM 24 MR. BAGLEY: Yes, Judge. We have.

03:10PM 25 THE COURT: Okay. And Mr. Mondore, you're familiar

03:10PM 1 with it and discussed it with your attorney, correct?

03:10PM 2 THE DEFENDANT: Yes, sir.

03:10PM 3 THE COURT: Okay. As you know, there's a lot of

03:10PM 4 information in there and I will consider all of that

03:10PM 5 information. I'm going to seal the report. I do that as a

03:11PM 6 matter of course and for obvious reasons because there's

03:11PM 7 information in the report that certain individuals would not

03:11PM 8 want made public. I think it's a fairer process to seal it.

03:11PM 9 But just so everybody is on notice, I am relying on the

03:11PM 10 information in that particular report for purposes of coming

03:11PM 11 to what should be a final sentence in this case.

03:11PM 12 My objective in this case, like it is in every case, is to

03:11PM 13 impose a sentence that's sufficient but not greater than

03:11PM 14 necessary and that's not necessarily an easy task. And I'm

03:11PM 15 going to work at, again, incorporating everything that's

03:11PM 16 brought to my attention today that will supplement the

03:12PM 17 information in the presentence report; in particular, what's

03:12PM 18 at paragraphs 11 through 27 on pages 4 through 9.

03:12PM 19 That information is the factual basis that supports both

03:12PM 20 the plea that was taken before me and that together with the

03:12PM 21 mitigating and aggravating circumstances will support the

03:12PM 22 sentence that will be imposed today. There's a lot at stake

03:12PM 23 here. This is a case that does concern me. Like every case,

03:12PM 24 it should be that way. I mean, if you are a Judge and you

03:12PM 25 sentence without being concerned, the likelihood that the

03:12PM 1 sentence is appropriate is diminished.

03:12PM 2 And I say that there's cause for concern here because this
03:12PM 3 is a different kind of fraud case, at least from my
03:13PM 4 perspective, and that's addressed in the submissions from the
03:13PM 5 attorneys and from probation. But it's a kind of fraud that
03:13PM 6 was and can be perpetuated without a face-to-face contact with
03:13PM 7 what turns out to be eventually the victims in this case.

03:13PM 8 And what the case does -- and I don't know profess to be
03:13PM 9 up to speed, I think, in terms of all of the intellectual and
03:13PM 10 practical developments of the internet, but I know enough to
03:13PM 11 know that a scheme like this and crime like this reflects the
03:13PM 12 dark side, if you will, the negative side, of social media
03:13PM 13 applications. And that makes it easy to take advantage of
03:14PM 14 others and individuals who become victims and that's what was
03:14PM 15 done here.

03:14PM 16 And the numbers to me are substantial. I don't know how
03:14PM 17 many individuals could be touched by a scheme like this. I
03:14PM 18 know that in this case we're talking about 300 or so Snapchat
03:14PM 19 accounts and we have at least 14 established victims.

03:14PM 20 MR. KRULY: In this district. Correct.

03:14PM 21 THE COURT: In this district. And one victim is a
03:14PM 22 lot. Fourteen is more than a lot. I mean, that's no
03:14PM 23 mathematical genius statement, I guess, but that's a lot. And
03:14PM 24 the ramifications and the results to individual victims can be
03:14PM 25 devastating and catastrophic. And that's not overstating it

03:15PM 1 because so many of these matters involve the most personal
03:15PM 2 sides of individuals. And I've read the victim letter in this
03:15PM 3 case. And I know a lot about you. And there's a lot of what
03:15PM 4 I consider to be positive qualities and I read the seven
03:15PM 5 letters that are part of my file that were sent to me.

03:15PM 6 I mean, frankly, to me, everything doesn't quite add up,
03:15PM 7 but that's usually the case because I don't have all the
03:15PM 8 information. And that's why listening to you and your
03:15PM 9 attorney will probably make a difference because I have not
03:15PM 10 really decided what the actual sentence should be. And I'll
03:16PM 11 explain to you why and then I'll listen to your attorney
03:16PM 12 first.

03:16PM 13 And I know he knows by my statement that I've read all of
03:16PM 14 the materials and I've read from him a memorandum of --
03:16PM 15 relating to sentencing that's very persuasive. And I'll say
03:16PM 16 the same thing to Mr. Kruly, because the government's
03:16PM 17 positions are also very well-put and persuasive. So that
03:16PM 18 information has to be sorted through.

03:16PM 19 I mentioned what was troubling to me in terms of the
03:16PM 20 numbers and the effect that this kind of crime can have on
03:16PM 21 individuals. You know what I think is important here, is now
03:16PM 22 you've got yourself in a hole that you've dug for yourself.
03:16PM 23 And you're going to go through life with the label of being a
03:17PM 24 convicted felon. And that's significant. That's something
03:17PM 25 that you're going to have to overcome.

03:17PM 1 I -- you know, I look at the letters that have been sent
03:17PM 2 to me and I mean they're very positive. They talk about what
03:17PM 3 a hard worker you are. They talk about where your friends met
03:17PM 4 you at a church youth group. And you're characterized as an
03:17PM 5 honorable guy and smart and creative and visionary. All those
03:17PM 6 things are, I'm sure, what you are in many respects.

03:17PM 7 On the other hand, you know, what I don't get is I think
03:17PM 8 the gentleman that wrote from -- is it Witchcraft, which was
03:17PM 9 the company that I guess you were going to be hired as a
03:17PM 10 consultant before it went under and it seemed to me that that
03:18PM 11 says a lot for you in one respect. And then I look at your
03:18PM 12 personal financial situation and your negative net worth is
03:18PM 13 \$65,000. For a supposedly talented guy, something is amok and
03:18PM 14 I don't know exactly what it is.

03:18PM 15 But the key here is, to me, is a guy that has a lot of
03:18PM 16 talent. I guess your culinary expertise is what most
03:18PM 17 individuals seem to highlight as a talent that they don't see
03:18PM 18 that often. And, I mean, I must admit you don't look like a
03:18PM 19 typical chef but nonetheless, that kind of talent with that
03:19PM 20 kind of persona can be a real plus, but when you balance where
03:19PM 21 you could be and what you got yourself into with the hurt that
03:19PM 22 you've caused in the process, that's hard to reconcile.

03:19PM 23 So with that, Mr. Bagley, it's a difficult case to
03:19PM 24 sentence. And you and me, we spar every now and then with the
03:19PM 25 various cases that you are involved in, but and I always

03:19PM 1 listen to what you have to say and this case is no exception.
03:19PM 2 I do want to hear from you. I really don't want to get into
03:19PM 3 the repetition of the facts beyond what I basically talked
03:19PM 4 about because they don't affect the calculations.

03:20PM 5 And just so I don't forget to do it for the record, some
03:20PM 6 of this, as you probably know Mr. Mondore, I have to do for
03:20PM 7 record purposes, otherwise the sentencing is not recognized as
03:20PM 8 legally sufficient, but the numbers in the presentence report
03:20PM 9 are correct and you know what they are better than I know
03:20PM 10 probably because the numbers are 17 for the crime and a
03:20PM 11 criminal history of I. And again, that's a mitigating factor.
03:20PM 12 And the fact that you had -- and I know Ms. Sainsbury from
03:20PM 13 probation has emphasized the fact that there is virtually no
03:20PM 14 prior criminal history and that's a plus.

03:20PM 15 So how you got yourself into this mess, I'll never figure
03:20PM 16 that out, but the sentence has to address the end result. And
03:20PM 17 the advisory range for purposes of sentencing is 24 to 30
03:20PM 18 months. That's a lot of time. And as I look at it, any day
03:21PM 19 in jail is a lot of time, but there has to be accountability
03:21PM 20 for adult conduct. And you're what, 30 years old?

03:21PM 21 THE DEFENDANT: Yes, sir.

03:21PM 22 THE COURT: So you're not a kid. There has to be
03:21PM 23 uniformity at sentence and there has to be deterrence so that
03:21PM 24 the avenues aren't open to just anybody that wants to mess
03:21PM 25 with peoples' private lives. And these Snapchat accounts were

03:21PM 1 so easy to access and you took advantage of that, but others
03:21PM 2 shouldn't. And sometimes sentencing has to send that message.
03:21PM 3 All right. Mr. Bagley?

03:21PM 4 MR. BAGLEY: Thank you, Judge. You know, as you
03:21PM 5 often do, Your Honor, I thought that you encapsulated some of
03:21PM 6 the contrast, some of the overriding issues that go into this
03:22PM 7 sentencing -- especially for David -- going into every
03:22PM 8 sentencing, especially for this one with David, Judge. And
03:22PM 9 sentencing is often a host of different contrast, different
03:22PM 10 interests competing. Obviously your job, an unenviable one as
03:22PM 11 it is, is to arrive as a sentence that is just but no greater
03:22PM 12 than necessary.

03:22PM 13 I think, for David, that one of the head scratchers is, is
03:22PM 14 how does somebody who leads this -- for 28, 29 years, leads --
03:22PM 15 I hate the word normal, Judge, but leads a perfectly lawful
03:22PM 16 and I will use the word normal life, average life, maybe
03:22PM 17 better than average life, Judge, right?

03:22PM 18 As you point out, he is a skilled chef, a skilled
03:22PM 19 businessman, a dedicated son, dedicated brother, and overall a
03:23PM 20 good person, but yet he finds himself sitting here, Judge,
03:23PM 21 next to me awaiting sentencing for a federal crime. One of
03:23PM 22 the explanations, not an excuse, but one explanation is that
03:23PM 23 David just didn't simply -- simply didn't realize the gravity
03:23PM 24 and the seriousness of what he was doing when he was doing it
03:23PM 25 sitting behind a computer, not realizing that he's having an

03:23PM 1 actual and real effect on other people out there in the real
03:23PM 2 world. And again, that does not excuse David's conduct, but I
03:23PM 3 think it helps to explain it. And there is no question, as we
03:23PM 4 sit here today, that David now understands and realizes the
03:23PM 5 severity of his conduct, realizes that what he did was
03:24PM 6 extremely wrong and is ashamed of himself for engaging in that
03:24PM 7 conduct.

03:24PM 8 And so that's important obviously, Judge, because it goes
03:24PM 9 to whether or not in every sentencing, I think the Court has
03:24PM 10 to consider is this individual that I'm sentencing, am I going
03:24PM 11 to see him here again at some point in the future? Is he
03:24PM 12 going to engage in this conduct? Am I going to be available
03:24PM 13 to protect the public from this type of conduct? Do I have to
03:24PM 14 send this individual in prison to order to protect against
03:24PM 15 this type of conduct?

03:24PM 16 And I think in the case of David, there should be no doubt
03:24PM 17 that he has for, again, lack of a better word, learned a very,
03:24PM 18 very hard lesson here that what he did, the conduct that he
03:24PM 19 engaged in is not tolerated and he understands that now.
03:24PM 20 There's no question about it.

03:24PM 21 How many defendants, Judge, do you sentence where that
03:25PM 22 defendant can say, after I pled guilty to this, after I
03:25PM 23 realized what I did was wrong, I got to sit down with my mom,
03:25PM 24 got to sit down with my mother and discuss that. And I
03:25PM 25 thought that that part of his mother's letter to Your Honor

1 was telling because, you know, it showed that he takes this
2 very seriously. It's not just a letter that you receive often
3 from a family member that says all the good things about the
4 defendant, but this letter says that they actually talked
5 about the crime itself and how it affected the victims and the
6 way that he felt about it. And so that shows the type of
7 growth that I think the Court should consider. It goes to the
8 history and characteristics of David.

9 THE COURT: Yeah, I know it does and I noted that in
10 the record. I didn't mean to interrupt you, but the comment
11 from your mother was very compelling. And she didn't avoid
12 the seriousness of what's involved here because it does, in
13 the second-to-last paragraph say, my son was caught up in
14 something very hurtful to others and downright wrong legally
15 and morally and that's really what we're dealing with here.

6 MR. BAGLEY: Right, Judge. Right. And so I don't
7 have much else to say. I know that David does have words that
8 he would like to share with the Court. I will just conclude
9 by saying that the conduct itself, he wasn't targeting minors,
10 he didn't coerce, didn't sell images that he received, was not
11 out about some sort of animus or some sort of revenge. So
12 none of those aggravating factors that sometimes exist in
13 cases like this exist for David. So I'll conclude with that
14 and ask that the Court listen to Mr. Mondore.

25 THE COURT: Okay, Mr. Bagley. Thank you.

03:27PM 1 Mr. Mondore?

03:27PM 2 THE DEFENDANT: Thank you, Your Honor. I would just
03:27PM 3 like to say a few things. I was raised to have a positive
03:27PM 4 impact on everybody I encounter. And for most of my life, I
03:27PM 5 have lived that way. Unfortunately -- and I had to take
03:27PM 6 responsibility. I let down my family, friends, loved ones who
03:27PM 7 look up to me and I really hurt people and their loved ones,
03:27PM 8 their friends.

03:27PM 9 And reading the victim's letter was very difficult, as
03:28PM 10 I've always tried to help people progress and I obviously had
03:28PM 11 the exact opposite effect; not just on this person, but on --
03:28PM 12 and it's hard. Like, to them, I'm a monster and that's
03:28PM 13 deserved. And to the families -- and they'll always probably
03:28PM 14 view me as that, and that's fair, but it's also hard to be
03:28PM 15 that person. And I like -- I won't live the rest of my life
03:28PM 16 like that.

03:28PM 17 I just refuse to let all the people who still support me
03:28PM 18 down again and to do that damage. Thank you. And I don't
03:29PM 19 know if it's appropriate, but I'd like to personally apologize
03:29PM 20 to the victim here today and their family. I'm very sorry for
03:29PM 21 what I caused you. I don't deserve your forgiveness. I'm
03:29PM 22 sorry.

03:29PM 23 THE COURT: Okay. Thank you. Mr. Kruly?

03:29PM 24 MR. KRULY: Judge, I'm going to yield most of my time
03:29PM 25 to Natalie Claus, one of the victims in this case who would

03:29PM 1 like to exercise her right under the Crime Victims Act to
03:29PM 2 address the Court and I'll have a few brief comments. If the
03:29PM 3 Court would indulge me, I'll get Ms. Claus.

03:30PM 4 Judge, the reason why I'm really not going to spend much
03:30PM 5 time talking is because I think Ms. Claus can say in a way
03:30PM 6 that I never can and emphasize in a way that I never can why
03:30PM 7 this is not a victimless crime. I think the Court hit the
03:30PM 8 nail on the head. This is an intensely personal crime that
03:30PM 9 strikes at the heart of a person's sense of privacy. It's the
03:30PM 10 21st century and akin to, frankly, breaking into someone's
03:30PM 11 home and stealing their deepest secrets, their diary, their
03:30PM 12 photos, their family treasures.

03:30PM 13 The internet just allows people to do this on an
03:30PM 14 industrial scale over and over and over and lowers the risk,
03:30PM 15 increases the reward. And when a crime is so easy to commit
03:30PM 16 over and over hundreds of times without any meaningful risk or
03:30PM 17 any meaningful chance of being caught, I think that a
03:30PM 18 guideline sentence is sufficient but not greater than
03:30PM 19 necessary to promote of the purpose of sentencing and
03:30PM 20 specifically the seriousness of the crime and the need to
03:31PM 21 deter others.

03:31PM 22 So with that, Judge, I'm going to yield to Ms. Claus.

03:31PM 23 MS. CLAUS: Forgive me. It's a bit long.

03:31PM 24 THE COURT: Sure. State your name please.

03:31PM 25 MS. CLAUS: My name is Natalie Claus.

03:31PM 1 THE COURT: Okay. You know that I read the statement
03:31PM 2 that is part of the file --

03:31PM 3 MS. CLAUS: I do.

03:31PM 4 THE COURT: -- that goes to the affect on you of what
03:31PM 5 took place, right?

03:31PM 6 MS. CLAUS: Yes.

03:31PM 7 THE COURT: All right.

03:31PM 8 MS. CLAUS: I'm a history major. I wanted to
03:31PM 9 introduce myself a little bit. I'm a history major --

03:31PM 10 THE COURT: At Geneseo.

03:31PM 11 THE DEFENDANT: -- at Geneseo. I was supposed to
03:31PM 12 graduate last May, a full year early. I'm graduating in a
03:31PM 13 couple weeks which is still a semester early, but it's not
03:31PM 14 what I planned. If I may, I'd like to address the defendant
03:31PM 15 directly. I don't know what that night was like for you.
03:31PM 16 Honestly, I doubt you even remember it, but I do. I remember
03:31PM 17 every detail.

03:31PM 18 It was December 5th. I had just turned 19 two months
03:32PM 19 before. Finals week was coming up and I had a project due for
03:32PM 20 my African Nationalism History class due the next day. I was
03:32PM 21 sitting in one of the academic buildings in a booth with a
03:32PM 22 bunch of my sorority sisters and we were just doing homework
03:32PM 23 and talking and joking and laughing. I stood up and walked
03:32PM 24 over to one of the printers to get some research for my
03:32PM 25 project and my friend Cassidy walked past me and she said,

03:32PM 1 cute picture, but be careful who you send that to. And I
03:32PM 2 asked her what she was talking about. And she said, the
03:32PM 3 Snapchat you just sent me. And I said, I'm not logged into my
03:32PM 4 Snapchat. I've been working. I haven't been on my phone in
03:32PM 5 over an hour. The look on her face is -- I will never forget
03:32PM 6 the look on her face. It was horrifying as she realized that
03:33PM 7 I really didn't know what she was talking about.

03:33PM 8 And it was like a scene from a movie. You know they say
03:33PM 9 everything around you slows, my ears were ringing, and I felt
03:33PM 10 like I couldn't breathe, and honestly I don't think I was.
03:33PM 11 All I could focus on was making it back to the booth. I was
03:33PM 12 fumbling for my phone and then there was a sinking realization
03:33PM 13 that this wasn't a dream, that this was happening.

03:33PM 14 And then there was a phone call from my mother who knew
03:33PM 15 before I did, because one of the people you sent that photo to
03:33PM 16 was my cousin. My mom's niece and my aunt overheard her
03:33PM 17 talking about it and called my mom who called me. I started
03:33PM 18 hyperventilating and sobbing in the middle of the building
03:33PM 19 which is what I'm doing now and I hate doing it. And people
03:34PM 20 were staring. And it was because of you.

03:34PM 21 I called UPD. The only officers on duty were men and
03:34PM 22 that's who I had to tell. One of them was fine and the other
03:34PM 23 one had this look on his face like he was judging me like it
03:34PM 24 was my fault for even having those photos in the first place.
03:34PM 25 I walked home in the cold and my friend Kate took everything

03:34PM 1 in my dorm room that was sharp so that I couldn't hurt myself.
03:34PM 2 She made me eat something, but when she left, I was so close
03:34PM 3 to ending it. I didn't think anyone was going to help me. I
03:34PM 4 didn't think anybody would care. I was humiliated and I had
03:34PM 5 my pills in my hand. Luckily two of my friends were still
03:34PM 6 awake so they let me sit with him until I was safe enough to
03:34PM 7 go home and just go to sleep, but I didn't leave my room for a
03:35PM 8 week.

03:35PM 9 I had to tell that story over and over again for months to
03:35PM 10 UPD, to the Title 9 coordinator, to a State Police detective
03:35PM 11 and then eventually the FBI and not to mention countless
03:35PM 12 friends and family members. You didn't know anything about
03:35PM 13 me. You didn't know that I struggled with disordered eating
03:35PM 14 in high school or that I suffer from anxiety and depression.
03:35PM 15 You didn't know that I was a survivor of rape. And that's why
03:35PM 16 I took the photos, to feel powerful in my own body again.

03:35PM 17 But I was just an image on a screen to you. Did you know
03:35PM 18 that people took screen shots of that photo and sent them to
03:35PM 19 my sorority sisters laughing at me, mocking me because they
03:35PM 20 thought I was the one who sent it? I can't walk across my
03:35PM 21 campus anymore without wondering who's seen it. I failed
03:36PM 22 classes because I was so depressed and I've never done that
03:36PM 23 before. People keep telling me that I'm so strong and that
03:36PM 24 I'm so brave, but I don't feel like that. I just feel weak
03:36PM 25 and small and I've spent the last two years in complete hell

03:36PM 1 all because you wanted naked photos of me because you thought
03:36PM 2 you had some sort of right to them like I was nothing more
03:36PM 3 than an image search. I'm more than just that photo.

03:36PM 4 And then I got word that you had been arrested and that
03:36PM 5 you were pleading guilty and I thought it was finally over.

03:36PM 6 All that was left was the sentencing. But every time it got
03:36PM 7 close, it got rescheduled and the rug was getting pulled out
03:36PM 8 from under me again, first because of scheduling conflicts,
03:36PM 9 and I understand that that happens, but the last two times

03:37PM 10 were because of you again.

03:37PM 11 And it felt just like two years ago. It felt like my life
03:37PM 12 wasn't my own. It felt like I was just a puppet. I mean,
03:37PM 13 that was all you thought of me as, right? It wasn't enough
03:37PM 14 that you violated my trust and my privacy and took those
03:37PM 15 photos. You had to use my body as a lure to get more photos
03:37PM 16 from my friends, people who trusted me. You have no idea how
03:37PM 17 dehumanizing that is.

03:37PM 18 I felt powerless and again on the 9th and again on the
03:37PM 19 16th because of you and your excuses and your games and I hope
03:37PM 20 you remember that night because I will never be able to forget
03:37PM 21 it. I'll never just get over this. I don't think you're a
03:37PM 22 monster. I think that that lets you off too easy. You are a
03:38PM 23 person. And you did this to another person. And it wasn't
03:38PM 24 just me. I'm the only one speaking here today, but there are
03:38PM 25 over 300 people out there, 300 accounts you admitted to

03:38PM 1 accessing, that are just like me. Thank you.

03:38PM 2 MR. KRULY: Judge, we'd ask for a guideline sentence.

03:39PM 3 THE COURT: Okay, Mr. Kruly. I guess if we had any

03:39PM 4 doubt what the term victim means, it's come graphically to

03:39PM 5 life in a statement such as that. As I mentioned, I did not

03:39PM 6 make my mind up entirely with respect to the sentence in this

03:39PM 7 case and I need a couple of minutes. I've got a couple things

03:39PM 8 I want to check out.

03:39PM 9 Ms. Sainsbury, can you join me for a moment and bring your

03:39PM 10 file with you please? It will probably be about 10 minutes or

03:40PM 11 so.

03:40PM 12 THE CLERK: All rise.

03:40PM 13 (A recess was taken from 3:40 p.m. to 3:59 p.m.)

03:59PM 14 THE CLERK: All rise.

03:59PM 15 THE COURT: Okay. Thank you. Please have a seat.

03:59PM 16 Okay. Mr. Mondore, I don't want to over dramatize this, but

03:59PM 17 it certainly cannot be lost on you that this is a serious

03:59PM 18 crime. And not just for you, but because it's the internet

04:00PM 19 and because of what that means to other potential

04:00PM 20 perpetrators.

04:00PM 21 And Ms. Sainsbury and I had a lot to discuss in terms of

04:00PM 22 some of the questions that I had that have been left

04:00PM 23 unanswered and are still troubling. And from my standpoint

04:00PM 24 it's, why would you do something like this? And there are no

04:00PM 25 answers here. And nobody's really provided that. And a lot

04:00PM 1 of times, it's easier to get a read on somebody, and you're a
04:00PM 2 difficult read. And you've had probably more contact with
04:01PM 3 probation than with me and you probably know because I know
04:01PM 4 you were watching me as I was speaking. I was watching you as
04:01PM 5 you were speaking. That involves getting a read on each
04:01PM 6 other. And there are issues of remorse and being sorry for
04:01PM 7 what has been done.

04:01PM 8 Of course I listened very closely to Ms. Claus and
04:01PM 9 obviously whoever heard what she said would obviously be moved
04:01PM 10 by it because it was very personal. This crime is very
04:01PM 11 personal. A lot of victims. One victim here. I listened
04:02PM 12 carefully to what she had to say and her vulnerability and her
04:02PM 13 continued hurt from what took place and her explanation as to
04:02PM 14 why her photo was where it was. And in hindsight, she
04:02PM 15 probably wouldn't do it again. And so there were a lot of
04:02PM 16 considerations here.

04:02PM 17 The guideline is 24 to 30 months. Is the crime serious
04:02PM 18 enough to warrant a sentence like that? Yes. Is a sentence
04:02PM 19 like that mitigatable? And I think it is in this case because
04:03PM 20 of all of the characteristics that are addressed and what
04:03PM 21 people have said about you.

04:03PM 22 I don't know if what I observed you say and the way you
04:03PM 23 appeared to me in saying it, was totally sincere. It was
04:03PM 24 emotional. And I don't know. Sometimes it's a gut feeling
04:03PM 25 that is determinative, but I can't say I have a comfort level

04:03PM 1 either way and that's going to factor into the sentence in
04:03PM 2 this case. I have no doubt what you did after listening to
04:04PM 3 Ms. Claus and putting this together as far as the other
04:04PM 4 individuals are concerned. I confess I don't understand why
04:04PM 5 individuals would do what they did to make themselves
04:04PM 6 accessible, but what you did in my view was reprehensible and
04:04PM 7 hurtful and personal. And I still don't know why.

04:04PM 8 But I think it boils down to a sentence that emphasizes
04:04PM 9 both the mitigating and the aggravating circumstances.

04:04PM 10 Looking at 24 months or 30 months for what you did, yeah, it
04:05PM 11 could be justified, but in balance, that would be wrong I
04:05PM 12 think. Recognizing that you are going to be a felon for life,
04:05PM 13 I think, should give a consoling moment to those that you have
04:05PM 14 offended because that's not going to go away.

04:05PM 15 And I'm going to put you on supervised release for two
04:05PM 16 years in addition to some jail time. And in a sense, and
04:05PM 17 don't take this the wrong way, but you're being sentenced for
04:05PM 18 being a jerk among other things. And if I read what your
04:05PM 19 mother said, I don't think she'd disagree with that. And
04:05PM 20 you've hurt not only people you didn't know, but certainly
04:05PM 21 people that you do know and that's a low blow in my judgment.

04:06PM 22 This is case is more complicated than just you. It's
04:06PM 23 complicated because it involves so many offshoots and so many
04:06PM 24 people that aren't here and I'm comfortable with the sentence,
04:06PM 25 but I want you to know that you've got a lot to prove. And

04:06PM 1 you will be watched over the course of two years on your
04:06PM 2 supervised release. I think the circumstances, all tolled,
04:06PM 3 warrant a departure from the guideline range and I'm going to
04:06PM 4 sentence you to six months. And every day is tough time when
04:06PM 5 you're serving a sentence. But if this doesn't teach a lesson
04:07PM 6 to you and others, I'm not sure what other kind of sentence
04:07PM 7 would.

04:07PM 8 And you can come out of this a lot better than you are
04:07PM 9 going in. And I think that's important. And I feel confident
04:07PM 10 that if you commit yourself to doing what your abilities will
04:07PM 11 allow you to do, you are going to be a better person after
04:07PM 12 this is all over. And I don't think you'll be any better
04:07PM 13 after 6 months or after 30 months if you make up your mind
04:07PM 14 that that's what you need to do.

04:07PM 15 And you can play the system, you can play me, you can play
04:07PM 16 those that have confidence in you. But if you do that, you're
04:08PM 17 going to lose your base. And that doesn't make sense to me.
04:08PM 18 It just doesn't make sense. You've got to pay the price.
04:08PM 19 You're man enough to understand that. I think this case
04:08PM 20 addresses what someone like Ms. Claus has gone through and
04:08PM 21 others.

04:08PM 22 There will be other conditions. You have to obey the
04:08PM 23 standard conditions of supervised release. You cannot commit
04:08PM 24 any other crimes federal, state, or local. You're a convicted
04:08PM 25 felon. You cannot possess a firearm, ammunition, or a

04:08PM 1 dangerous device. You cannot possess controlled substances.
04:08PM 2 And you must cooperate in the collection of a DNA sample as
04:09PM 3 required by the 1994 Crime Control Act of 2004, things that
04:09PM 4 will make you realize who you are now. Because this offense
04:09PM 5 occurred after September 13th of 1994, drug testing is
04:09PM 6 required by the 1994 Crime Control Act.

04:09PM 7 A specific condition is that you shall not use or possess
04:09PM 8 any computer data storage device or any internet-capable
04:09PM 9 device unless you participate in the computer and internet
04:09PM 10 monitoring program of probation or unless authorized by the
04:09PM 11 Court or the United States Probation Office. You must provide
04:09PM 12 the probation office advanced notification of any computers,
04:09PM 13 authorized services or connected devices that would be used
04:09PM 14 during the term of supervision.

04:09PM 15 The probation office is authorized to install any
04:10PM 16 application as necessary to surveil all activity on computers
04:10PM 17 or connected devices owned or operated by you. You will be
04:10PM 18 required to pay the cost of monitoring services. The
04:10PM 19 probation office shall be notified via electronic transmission
04:10PM 20 of impermissible or suspicious activity or communications
04:10PM 21 occurring on such computer or connected device consistent with
04:10PM 22 the computer monitoring policy in effect by the probation
04:10PM 23 office as triggered by impermissible or suspicious activity.

04:10PM 24 You shall consent to and cooperate with unannounced
04:10PM 25 examinations of any computer equipment owned or used by you.

04:10PM 1 This examination shall include but is not limited to retrieval
04:10PM 2 and copying of all data from the computers, connected devices,
04:10PM 3 storage media and any internal or external peripherals and it
04:10PM 4 may involve removal of such equipment for the purpose of
04:11PM 5 conducting a more thorough inspection. Any such monitoring or
04:11PM 6 examinations shall be designed to avoid as much as possible
04:11PM 7 reading any privileged information or any private material
04:11PM 8 that is not illegal or reasonably likely to lead to illegal
04:11PM 9 material or evidence related to illegal activity.

04:11PM 10 You will be required to submit to a search of your person,
04:11PM 11 property, vehicle, place of residence, or any other property
04:11PM 12 under your control, based upon reasonable suspicion, and
04:11PM 13 permit confiscation of any evidence or contraband discovered.
04:11PM 14 You shall avoid all contact directly or indirectly with any of
04:11PM 15 the victims in this case.

04:11PM 16 Pursuant to Section 3663(a) of Title 18, you are ordered
04:11PM 17 to make restitution to the victim in the amount of \$1,124.

04:12PM 18 The restitution is due immediately. Interest on the
04:12PM 19 restitution is waived. Restitution will be joint and several.
04:12PM 20 While incarcerated, if you are in UNICOR or non-UNICOR Grade
04:12PM 21 5, you shall pay \$25 per quarter. If assigned Grades 1
04:12PM 22 through 4 in UNICOR, you shall pay installments of 50 percent
04:12PM 23 of your monthly pay.

04:12PM 24 After considering the factors of Section 3664(f)(2), while
04:12PM 25 on that two years supervised release, you shall make monthly

04:12PM 1 payments at the rate of 10 percent of your monthly gross
04:12PM 2 income until your monetary obligation is satisfied. You shall
04:12PM 3 provide the probation office with access to any requested
04:12PM 4 personal and/or business financial information. The probation
04:12PM 5 office is authorized to release presentence and post-sentence
04:13PM 6 financial information submitted by you to the US Attorney's
04:13PM 7 Office for the use in the collection of any unpaid restitution
04:13PM 8 amount.

04:13PM 9 If restitution or a fine is owed, you shall notify the
04:13PM 10 probation office of any assets received and shall not disburse
04:13PM 11 your interest in any assets including but not limited to
04:13PM 12 income tax refunds, inheritance, insurance, lawsuits,
04:13PM 13 settlements or gambling winnings without approval of the US
04:13PM 14 Probation Office. While the fine or restitution balance is
04:13PM 15 outstanding, you shall not incur any form of debt including
04:13PM 16 but not limited to the use of existing credit cards, new
04:13PM 17 credit cards, lines of credit, mortgages, or private loans
04:13PM 18 without the approval of the US Probation Office.

04:13PM 19 The Court finds that you do not have the ability to pay a
04:13PM 20 fine and I'm going to order that the fine possibility here be
04:14PM 21 waived. You shall pay a special assessment though of \$100.
04:14PM 22 That's due and payable immediately. If you're incarcerated,
04:14PM 23 the payment obligation, if it's not fully paid, will begin
04:14PM 24 under the Inmate Financial Responsibility Program. You shall
04:14PM 25 forfeit your interest in the property specifically set forth

04:14PM 1 in section 9 of the plea agreement and that's incorporated
04:14PM 2 herein and all of that's incorporated in the judgement.
04:14PM 3 It sounds complicated. It's not. It's basic. In my
04:14PM 4 judgment, this is a fair sentence. It's fair, just,
04:14PM 5 sufficient, not greater than necessary. You have to make it
04:14PM 6 turn out right. Nobody else can do it for you. And in my
04:14PM 7 judgment, it sends the right message to those that have been
04:14PM 8 injured for what you have done and also those that may have
04:15PM 9 been contemplating doing something similar. Do you understand
04:15PM 10 your sentence?
04:15PM 11 THE DEFENDANT: Yes, Your Honor.
04:15PM 12 THE COURT: Okay. Mr. Kruly, anything to dismiss?
04:15PM 13 MR. KRULY: Yes, Judge. The complaint at 20-mj-5176
04:15PM 14 we move to dismiss.
04:15PM 15 THE COURT: Okay. No objection, Mr. Bagley?
04:15PM 16 MR. BAGLEY: No, Judge.
04:15PM 17 THE COURT: Ms. Sainsbury, did I miss anything?
04:15PM 18 P.O. SAINSBURY: Your Honor, I just want to clarify.
04:15PM 19 I believe the restitution you ordered was \$1,124. We were
04:15PM 20 requesting \$1,242. I just want to make sure that number was
04:15PM 21 correct.
04:15PM 22 THE COURT: I guess my math wasn't that good, so I
04:15PM 23 will change that to the \$1,242.
04:15PM 24 P.O. SAINSBURY: Thank you, Your Honor.
04:15PM 25 THE COURT: All right. That ends this case. I will

04:15PM 1 allow voluntary surrender. You will be notified. Make sure
04:15PM 2 you get there on time at your own expense otherwise it becomes
04:15PM 3 vastly more complicated and it's not likely to be in your best
04:16PM 4 interest.

04:16PM 5 THE DEFENDANT: Yes, sir.

04:16PM 6 THE COURT: Okay. Thank you very much.

04:16PM 7 MR. BAGLEY: Thank you, Judge.

04:16PM 8 (Proceedings concluded at 4:16 p.m.)

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3 I certify that the foregoing is a
4 correct transcription of the proceedings
5 recorded by me in this matter.

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9 s/ Megan E. Pelka, RPR

10 Official Court Reporter

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